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Paper No.

CAMPBELL STEPHENSON LLP 11401 CENTURY OAKS TERRACE BLDG. H, SUITE 250 AUSTIN TX 78758

MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of

Saleh et al.

Application No. 09/750,668

LETTER REGARDING

Filed: December 29, 2000

PATENT TERM ADJUSTMENT

Atty Docket No. CISO008P4US

This letter is in response to the "COMMENT ON PTA CALCULATION," filed on May 1, 2008. Applicants request that the initial determination of patent term adjustment under 35 USC 154(b) be reviewed. The request is treated as a request pursuant to applicant's duty of good faith and candor to the Office.

The request for review of patent term adjustment is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is NINE HUNDRED FIFTY EIGHT (958) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 1, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is nine hundred sixty-nine (969) days. Applicants state that the PALM entry date for the RCE filed on June 18, 2007, is incorrectly stated as June 11, 2007, and may affect the PTA calculation for the subject application.

The Office initially determined a patent term adjustment of nine hundred sixty-nine (969) days based on an adjustment for PTO delay of one thousand one hundred thirteen (1113) days, pursuant to 35 USC 154(b) and 37 CFR 1.703(a)(1). This was reduced by the following periods of applicant delay pursuant to 37 CFR 1.704(b): by three (3) days, for the filing of an amendment in response to a non-final Office action on December 30, 2005, three (3) months and three (3) days after the mailing of the non-final Office action on September 27, 2005; by four (4) days, for the filing of an amendment in response to a non-final Office action on October 10, 2006, three (3) months and four (4) days after the mailing of the non-final Office action on July 6, 2006; by 85 days, for the filing of a request for continued examination (RCE) on June 11, 2007, three (3) months and 85 days after the mailing of a final Office action on December 18, 2006; by 34 days, for the filing of a response to the non-final Office action on November 1, 2007, three (3) months and 34 days after the mailing of the non-final Office action on June 28, 2007, and by 18 days, for the filing of a supplemental amendment on November 19, 2007, or 18 days after the filing of an amendment on November 1, 2007.

Applicants are correct. The RCE was filed on June 18, 2007, not June 11, 2007. 37 CFR 1.704(b) states, in pertinent part that:

An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

Accordingly, ninety-two (92) days of applicant delay should have been assessed, rather than 85 days, for filing of an RCE on June

18, 2007, or three months and 92 days after the mailing of the final Office action mailed December 18, 2006.

Further, a review of the record reveals that applicants should have been assessed four (4) days of reduction in patent term adjustment for the filing of an RCE on June 19, 2006, or three months and 4 days after the mailing of the final Office action mailed on March 15, 2006.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is nine hundred fiftyeight (958) days (1113 days of PTO delay, reduced by 155 (3+4+4+92+34+18) days of Applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-

3231.

Nanoy Johnson

Senior Petitions Attorney

Office of Petitions

Enclosure: Revised PALM Calculation

Day : Wednesday



PALM INTRANET

Date: 1/28/2009 Time: 18:48:04

PTA Calculations for Application: 09/750668						
Application Filing Date:	12/29/2000	PTO Delay (PTO):	1113			
Issue Date of Patent:		Three Years:	0			
Pre-Issue Petitions:	0	Applicant Delay (APPL):	144			
Post-Issue Petitions:	0	Total PTA (days):	958			
PTO Delay Adjustment:	-11					

File Contents History						
Number	Date	Contents Description	PTO	APPL	START	
92	09/12/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE				
90	09/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		4		
89	09/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		92		
88	09/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	85			
75	02/01/2008	MAIL NOTICE OF ALLOWANCE				
74	01/31/2008	ISSUE REVISION COMPLETED				
73	01/31/2008	DOCUMENT VERIFICATION				
72	01/30/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED				
71	01/30/2008	NOTICE OF ALLOWABILITY				
70	11/25/2007	DATE FORWARDED TO EXAMINER				
69	11/19/2007	SUPPLEMENTAL RESPONSE		18	66	
68	10/31/2007	MISCELLANEOUS INCOMING LETTER				
67	11/16/2007	DATE FORWARDED TO EXAMINER				
66	11/01/2007	RESPONSE AFTER NON-FINAL ACTION		34	63	
65	11/01/2007	REQUEST FOR EXTENSION OF TIME - GRANTED				
64	10/31/2007	WORKFLOW - REQUEST FOR RCE - BEGIN				
63	06/28/2007	MAIL NON-FINAL REJECTION				
62	06/22/2007	NON-FINAL REJECTION				
61	06/21/2007	DATE FORWARDED TO EXAMINER				
60	06/11/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE				
59	06/21/2007	DATE FORWARDED TO EXAMINER				
58	06/11/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		85	51	

lı		DISPOSAL FOR A RCE/CPA/129 (EXPRESS	II	li .	11 1
57	06/21/2007	ABANDONMENT IF CPA)			
56	06/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
55	03/06/2007	MAIL ADVISORY ACTION (PTOL - 303)			
54	03/05/2007	ADVISORY ACTION (PTOL-303)			
53	03/02/2007	DATE FORWARDED TO EXAMINER			
52	02/23/2007	AMENDMENT AFTER FINAL REJECTION			
51	12/18/2006	MAIL FINAL REJECTION (PTOL - 326)			
50	12/15/2006	FINAL REJECTION			
49	10/18/2006	DATE FORWARDED TO EXAMINER			
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46	06/30/2006	NON-FINAL REJECTION			
45		DATE FORWARDED TO EXAMINER			
44	06/19/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	06/28/2006	DATE FORWARDED TO EXAMINER			
42	06/19/2006	II(RCE)			
41	06/28/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
40	06/19/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
38	03/15/2006	MAIL FINAL REJECTION (PTOL - 326)			
37	03/14/2006	FINAL REJECTION			
36	01/13/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	09/29/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	07/05/2001	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	01/12/2006	DATE FORWARDED TO EXAMINER			
32	12/30/2005	RESPONSE AFTER NON-FINAL ACTION		3	30
31	10/12/2005	CASE DOCKETED TO EXAMINER IN GAU			
30	09/27/2005	MAIL NON-FINAL REJECTION			
29	09/27/2005	NON-FINAL REJECTION			
28	09/20/2005	DATE FORWARDED TO EXAMINER			
27	09/14/2005	RESPONSE TO ELECTION / RESTRICTION FILED			

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26	08/10/2005	MAIL SUPPLEMENTAL RESTRICTION / ELECTION REQUIREMENT			
25	08/10/2005	II- 413)			
24	08/05/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
23	08/08/2005	SUPPLEMENTAL RESTRICTION			
22	03/17/2005	MAIL RESTRICTION REQUIREMENT	1113		-1
21	03/15/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
20	02/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	02/04/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	01/13/2004	REFERENCE CAPTURE ON IDS			
17	09/29/2003	REFERENCE CAPTURE ON IDS			
16	07/05/2001	REFERENCE CAPTURE ON IDS			
15	12/30/2004	CASE DOCKETED TO EXAMINER IN GAU			
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13.7	01/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12.7	09/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	09/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/09/2002	CASE DOCKETED TO EXAMINER IN GAU			
10.7	07/05/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	07/05/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	08/20/2001	CASE DOCKETED TO EXAMINER IN GAU			
8	08/03/2001	APPLICATION DISPATCHED FROM OIPE			
7	04/12/2001	APPLICATION IS NOW COMPLETE			
6	07/23/2001	CORRESPONDENCE ADDRESS CHANGE			
5	04/12/2001	NOTICE MAILEDAPPLICATION INCOMPLETEFILING DATE ASSIGNED			
4	04/12/2001	CORRESPONDENCE ADDRESS CHANGE			
3	04/11/2001	CORRESPONDENCE ADDRESS CHANGE			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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